

Date of Hearing: May 1, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1822 (Committee on Local Government) – As Amended April 8, 2019

SUBJECT: Local Government: omnibus.

SUMMARY: Makes several non-controversial changes to the local agency formation commission (LAFCO) statutes which govern local government organization and reorganization.

EXISTING LAW: establishes the procedures for the organization and reorganization of cities, counties, and special districts under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000 (Act).

FISCAL EFFECT: None

COMMENTS:

- 1) **LAFCOs.** LAFCOs are responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify, and streamline governmental structures, and preparing a sphere of influence for each city and special district within each county. The courts refer to LAFCOs as the Legislature's "watchdog" over local boundary changes. The Act establishes procedures for local government changes of organization, including city incorporations, disincorporations, city and special district consolidations, and annexations to a city or special district. LAFCOs regulate boundary changes through the approval or denial of proposals by other public agencies or individuals for these procedures.
- 2) **Background and Prior Legislation.** As statutes go into effect, local officials and others often discover problems or inconsistencies in the language of the law and approach the Legislature to correct them. These minor problems do not warrant separate bills, so this Committee has found that it is expeditious and relatively inexpensive to respond to multiple minor, non-controversial requests on related issues by combining them into an annual "omnibus bill." Since the major rewrite of the Act governing local agency organization and reorganization [AB 2838 (Hertzberg), Chapter 761, Statutes of 2000], the Committee has focused its omnibus bill efforts on LAFCO-related issues.

Prior bills authored by the Committee include: AB 2795, Chapter 47, Statutes of 2010; AB 1430, Chapter 300, Statutes of 2011; AB 2698, Chapter 62, Statutes of 2012; AB 1427, Chapter 87, Statutes of 2013; AB 2762, Chapter 112, Statutes of 2014; AB 1532, Chapter 114, Statutes of 2015; AB 2910, Chapter 165, Statutes of 2016; AB 1725, Chapter 353, Statutes of 2017; and, AB 3254, Chapter 86, Statutes of 2018.

This bill reflects the concerns of LAFCOs and other stakeholders who have brought proposals and issues to the Committee. All proposals are vetted by a large number of stakeholders. Any proposal that provokes any controversy or opposition is rejected for inclusion.

- 3) **Bill Summary.** This bill is sponsored by the California Association of LAFCOs (CALAFCO) and makes several non-controversial changes to the Act, including the following:
- a) **Definition of Service.** Government Code Section 56074 defines “service” which applies only to services provided by special districts if the LAFCO has adopted regulations under 56821 et. seq. It does not include services provided by cities or services provided by special districts if the LAFCO has not adopted such regulations. LAFCOs are no longer able to adopt (or amend) such regulations, as their ability to do so under section 56821 was repealed in 2001. The proposed definition reflects common usage by being inclusive of services provided by both cities and special districts and eliminating reference to the obsolete provisions in 56821 et. seq. If there are any LAFCOs that adopted such regulations before 2001 that remain in effect, the proposed revisions will not affect them.
 - b) **Definition of Service Review.** The term “service review” (known more commonly as “Municipal Service Review”) is not defined in the Act. Adding a definition of “service review” will clarify the importance of preparing service reviews to LAFCO’s mission. The fact that there are existing definitions of other essential LAFCO functions (i.e., change of organization, reorganization, and spheres of influence) suggests that not having a definition of service review is a glaring omission.
 - c) **Extension of Service.** Government Code Section 56133(c) is specific and clear: if an existing or impending threat to the health or safety of the public or residents of some territory that is outside the jurisdictional boundary and sphere of influence of an agency is determined, LAFCO can authorize a city or district to provide new or extended services. While a LAFCO can certainly adopt a policy that follows state law, it is not necessary to the implementation of this section of the code. Moreover, the question could be raised as to whether a LAFCO could act, pursuant to this section, if it did not adopt a specific policy. The clause is not necessary and was left in this section inadvertently when AB 402 (Dodd), Chapter 402, Statutes of 2015, was narrowed to focus on a pilot program involving Napa and San Bernardino LAFCOs. The pilot program was eventually added into a separate section of the statute, but this clause was never deleted from 56133(c).
 - d) **Protest Provisions.** Government Code Section 56663 focuses on the circumstances under which protest proceedings can be waived. The way the current language of 56663 is phrased, there is a potential assumption that the commission *will* approve a proposal. However, approval is not predetermined at the time of the mailed notice. The addition of these words would alleviate any assumptions and provide clarity.
 - e) **Consolidations.** In the most recent reorganization of protest proceeding statutes, city consolidations were not addressed [AB 2698 (Committee on Local Government), Chapter 62, Statutes of 2012]. The suggested addition of city consolidations into Government Code Section 57077 would address this omission. Including city consolidations in this section recognizes the potential sensitivity of such an action by directly triggering an election.
 - f) **Healthcare Districts.** Currently, there is an inconsistency in a LAFCO’s authority to dissolve a healthcare district without an election. In an effort to clarify that a healthcare district can be dissolved without an election, the 2016 omnibus bill [AB 2910

(Committee on Local Government), Chapter 195, Statutes of 2016] added language to Government Code Section 57077.1(c). This proposal will place a cross reference in Government Code Section 57103 that refers back to 57077.1(c) to provide clarification regarding LAFCO's statutory authority to dissolve healthcare districts.

- g) **Obsolete Language.** Chapter 805, Statutes of 2004, are uncodified statutes first adopted in AB 2306 (Richman), Chapter 805, Statutes of 2004, and extended by AB 1744 (Committee on Local Government), Chapter 244, Statutes of 2007. These statutes are specific to unincorporated island annexations in the City of Simi Valley and is limited to the timeframe "on or before, December 31, 2014." This proposal would delete obsolete language.
- 4) **Arguments in Support.** CALAFCO argues, "This annual bill includes technical changes to the Act which governs the work of Local Agency Formation Commissions. These changes are necessary as commissions implement the Act and small inconsistencies are found or clarifications are needed to make the law as unambiguous as possible. AB 1822 currently makes minor technical corrections to language used in the Act."
- 5) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

CALAFCO [SPONSOR]

Fruitland Ridge Fire Protection District

LAFCOs: Butte, Contra Costa, El Dorado, Fresno, Humboldt, Los Angeles, Napa, Nevada, Orange, Riverside, San Mateo, Sonoma, Stanislaus, and Yolo.

Opposition

None on file

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